

Email: rlgreenak@yahoo.com

IN THE SUPREME COURT FOR THE STATE OF ALASKA

Richard L. Green

Appellant ,

vs.

State of Alaska, DHSS, OCS, OPA)

Appellee(s),

Trial Court Case No. 3PA-20-00568-571CI

1/ 4/2022
REFUSED FOR FILING

You are currently
represented by an
attorney in case No.
S-18062. Your attorney
must file documents
on your behalf, APP. R.
518(c).

Ryan Montgomery-Sythe
Chief Deputy Clerk

CC: A. Gulkis
R. Levitt
E. Rarchoff
K. Demarest

MOTION TO PRESERVE RIGHTS/SUPPLIMENT/REMAND

(EXPEDITED FOR CHILD CUSTODY)

Comes now Richard Green, and files his motion to preserve his right to file a supplemental brief or writ to the U.S. District Court and for other relief. This motion is supported by a memorandum which is included, memorandum on the enactment of the UCCJEA is attached and a case law memorandum is also attached. Exhibit A is the certified copy of the Indonesian determination of custody.

Holding that, "petitioner [Mr. Green] may satisfy the exhaustion requirements by presenting his federal claim in a pro se supplemental brief, even if he has an attorney"¹

Mr. Gulkis being duly appointed to represent my trial objectives in this appeal filed his opening brief on December

¹ Dorsey v. Kelly, 112 F.3d 50, 2nd Circuit Court of Appeals

10, 2021. That brief raises two issues, 1. Subject matter jurisdiction in that the court acted without court appointed counsel present over the objection of Mr. Green and in clear violation of the law, and 2. That Mr. Ross was ineffective.

What Mr. Gulkis never discussed with Mr. Green what he would plead/appeal, nor asked what Mr. Green's objective was in the appeal process. Mr. Gulkis acted on his own and without any input from Mr. Green and failed to raise on appeal and Mr. Green wishes to preserve his right to plead/appeal for Ineffective Assistance of Counsel as committed by the Public Defender Agency and their duly appointed representative Ms. Laurel Bennett.

Mr. Green preserves his right to appeal that a foreign custody and return order have already been issued and the State of Alaska does not have any statutory right to modify a foreign custody order. The State of Alaska lacks subject-matter jurisdiction to modify a foreign custody order.² Ms. Bennett plead the jurisdictional issue³ and then refused to advocate on Mr. Green's behalf and uphold his trial objectives.

² See the attached Memorandum of the enactment of the UCCJEA in Alaska.

³ Exhibit D

Ms. Bennett was too sympathetic to the State of Alaska and the Office of Children's Services position to advocate for any relief for Mr. Green.

Ms. Bennett failed to file motions and seek a hearing for modification that Mr. Green was entitled to under the law and failed to raise procedural deficiencies.⁴

Ms. Bennett failed to prepare for trial⁵ in any meaningful way.⁶

Ms. Bennett had documents that clearly show that the Alaska Trial Court did not have subject-matter jurisdiction to even hear this case and she flagrantly failed to plead and have a hearing on the merits on those issues.

Ms. Bennett failed to get (and the SOA refused to provide)^{7/8} and review the discovery in this case.

⁴ People v. Williams (1999) // counsel's failure to raise procedural deficiencies renders ineffective counsel (because no jurisdiction)

⁵ In re Avena (1996) // lack of trial preparation is IAC

⁶ The A.R.Pro.C. Rule 1.1. Competence. (a) **A lawyer shall provide competent representation to a client.** Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

⁷ *United States v. Agurs*, 427 U.S. at 427 U. S. 112 (footnote omitted) ("The proper standard of materiality [of a prosecutor's failure to disclose exculpatory evidence] must reflect our overriding concern with the justice of the finding of guilt")

⁸ In re Sassounian (1995) // failure to disclose discovery renders IAC.

Ms. Bennett failed to call pertinent witnesses⁹ to Mr. Green's defense, in fact Ms. Bennett provided absolutely no witnesses for Mr. Green's defense at all.

Ms. Bennett has several expert witnesses provided by Mr. Green and she failed to use any of those expert witnesses at trial.

Ms. Bennett failed to cross-examine witness¹⁰ that the State presented to provide a defense to their false testimony in this case.

Ms. Bennett denied Mr. Green his right to testify at trial against his wishes.

Ms. Bennett did not uphold Mr. Green's trial objectives that were clearly related to her multiple times.¹¹

Ms. Bennett failed to provide Mr. Green with any defense to the false allegations brought by the State of Alaska in the trial case.

Ms. Bennett refused to file the appeal when Mr. Green requested her assistance to exercise his right of appeal.¹²

⁹ People v. Bess, 153 Cal.App.3d 1053 | IAC was granted for failure to investigate witnesses and call them

¹⁰ In re Vargas, 83 Cal.App.4th 1125 | refusal to cross examine and call witnesses is IAC

¹¹ See footnote 15, 16 and 17.

¹² Lozada v. Deeds // 498 U.S. 430 (1991) // counsel failure to notify and file notice of appeal is IAC

This Court already knows that Mr. Green was forced to file to open this appeal himself because of his court appointed counsels complete and utter failure in this case.

Mr. Gulkis failure to raise these substantive issue have prejudiced Mr. Green in this appeal, as such the issue must be preserved accordingly.

Since that time the Trial Court ordered the withdrawal of the public defender agency recognizing a clear conflict of interest exists between Mr. Green and the Agency. After an intentional delay for 2 months (stopping Mr. Green from exercising his right to access the courts). The same Trial Court judge then reappointed the same public defender agency (that she ordered out of the case for a conflict) to represent Mr. Green despite the ongoing conflict of interest.

Since that time the public defender agency has not filed on motion and has done nothing to advocate for Mr. Green's trial objectives.

The public defender agency denied Mr. Green his right to a hearing on the merits to challenge the subject-matter jurisdiction and establish ineffective assistance of counsel of the PDA (claiming that those issue were on appeal) and recently the Trial Court issued a new order allowing Mr. Green

(through his conflicted counsel) to raise the jurisdictional issues at the trial court level.

However what the Trial Court fails to realize is that the public defender agency cannot raise these jurisdictional issues now because in doing so they must argue and prove their own ineffectiveness in representing Mr. Green.¹³

In a recent filing from what would be considered an expert in the law. He penned that the discovery reveled that OCS employee Ms. Kendra Wardlaw and the SOA prosecutor Mr. Ranchoff (CINA case) intentionally lied to law enforcement offices during an investigation. Those direct lies were the sole basis for this "new case" and functioned as a primary basis for their conviction in this case and the related CINA case.

Essentially what we have here is TOP State of Alaska employees lying to Law enforcement officers¹⁴ and other

¹³ A.R.Pro.C. Rule 1.7. Conflict of Interest: General Rule. **Loyalty is an essential element in the lawyer's relationship to a client.**

¹⁴ 20 CFR § 11.431 False reports.

(a) A person who knowingly gives false information to any law enforcement officer with the purpose to implicate another commits a misdemeanor.

(b) A person commits a petty misdemeanor if he or she: (1) Reports to law enforcement authorities an offense or other incident within their concern knowing that it did not occur; or (2) Pretends to furnish such authorities with information relating to an offense or incident when he or she knows he or she has no information relating to such offense or incident.

prosecutors so that they can create false charges and then use those false charges as the basis for conviction in other litigation.¹⁵ Mr. Green believes that this is racketeering¹⁶ that is prohibited under the federal law.

Mr. Green has asked his public defender several times to file and provide him a hearing on the merits (IAC and jurisdictional issues) and his counsel refuses to advocate for him and uphold his clear trial objectives,¹⁷ thus the "new" public defender remains ineffective by their voluntary choice and complete refusal to advocate on Mr. Green's behalf.

Mr. Green emailed his appellant counsel to ask if he would bring these issues and points on appeal in the reply brief and he stated that he could not bring the appellant points in the reply brief.

Thus Mr. Green's appointed appellant counsel has not preserved Mr. Green's substantive arguments¹⁸ on appeal and

¹⁵ In the United States, if the prosecution obtains a ... conviction using evidence that it knows is false, the conviction violates the defendant's constitutional right to due process (e.g., *Napue v. Illinois*, 1959).

¹⁶ "Racketeering is not a single crime or a single criminal act, but an organized scheme." <https://www.findlaw.com/criminal/criminal-charges/racketeering-rico.html>

¹⁷ See footnote 15,16 and 17.

¹⁸ A.R.Pro.C. Rule 1.4. Communication. (a) A lawyer shall keep a client reasonably informed about the status of a matter undertaken on the client's behalf and promptly comply with reasonable requests for information. (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions...The client should have sufficient information to participate

thus is also ineffective in upholding Mr. Green clear trial objectives¹⁹ in this case on appeal.²⁰

Mr. Green asks this court for an immediate order (remand) directing the trial court to hear Mr. Green's jurisdictional an Ineffective Assistance of Counsel (against Ms. Bennett) arguments so the record can be fully established, or

intelligently in decisions concerning the objectives of the representation...inform the client of communications from another party and take other reasonable steps that permit the client to make a decision regarding a serious offer from another party. Even when a client delegates authority to the lawyer, the client should be kept advised of the status of the matter. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that might injure or coerce others.

¹⁹ A.R.Pro.C. Rule 1.2. Scope of Representation. (a) A lawyer shall abide by a client's decisions concerning the objectives of representation, (c) A lawyer may limit the objectives of the representation if the client consents after consultation. Scope of representation is defined as: **The client has ultimate authority to determine the purposes to be served by legal representation,... the lawyer should assume responsibility for technical and legal tactical issues, but should defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected.**

²⁰ A.R.Pro.C. Rule 1.3. Diligence. A lawyer shall act with reasonable diligence and promptness in representing a client. **A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and may take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer should act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness.** For example, ... the lawyer should advise the client of the possibility of appeal before relinquishing responsibility for the matter

This Court should allow Mr. Green to file his supplemental brief²¹ addressing his additional points on appeal that his court appointed counsel refused/failed to bring to the courts attention in his brief, and/or

Mr. Green preserves his right to file a writ of habeas corpus for multiple constitutional (due process/ineffective assistance of counsel and parental autonomy) and U.S. Treaty violations (jurisdiction in custody cases) to the Federal District Court in Alaska.

Respectively Submitted,

DATED at Wasilla, Alaska, this 3 day of January, 2022.

By: /R/Green
Richard Green

Certificate of Service
I hereby certify that a true and correct copy of the foregoing was mailed/emailed/hand delivered to:

Adam Gulkis adam@gulkislaw.com
Ranchoff, Eric J (LAW) <eric.ranchoff@alaska.gov>;
Linda Beecher linda.beecher@alaska.gov *as counsel for Ms. Bennett
Levitt, Rachel E (DOA) <rachel.levitt@alaska.gov>;
Katherine Demarest anc.law.ecf@alaska.gov

this 3 day of January, 2022

 /R/Green

²¹ Holding that, "petitioner may satisfy the exhaustion requirements by presenting his federal claim in a pro se supplemental brief, even if he has an attorney" Dorsey v. Kelly, 112 F.3d 50, 2nd Circuit Court of Appeals

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IN THE SUPREME COURT FOR THE STATE OF ALASKA

Richard L. Green)	
)	
Appellant ,)	
vs.)	Supreme Court
)	Case No. S-18062
State of Alaska, DHSS, OCS, OPA))	
)	
Appellee(s),)	
)	
<hr/>		
Trial Court Case No. 3PA-20-00568-571CI		

**Mr. GREEN'S MEMORANDUM AS TO THE ENACTMENT OF THE
UCCJEA IN ALASKA**

Alaska Law

The UCCJEA has been adopted and is fully enforceable in the State of Alaska. Alaska is bound to every provision of the convention in this case.

The State of Alaska's Jurisdiction is Limited to Recognition and Enforcement

Duty to Recognize

This Court has a duty to recognize the Orders issued by the Indonesian Tribunal related to custody and the immediate return of the children to Indonesia their registered domicile and habitual residence under AS 25.30.410

- (a) "A court of this state [SOA] shall recognize and enforce a child custody determination of a court of another state [Indonesia] if the court of the other state [Indonesia] exercised jurisdiction in substantial conformity with this chapter or the determination was made under factual circumstances meeting the jurisdictional standards of this chapter and the determination has not been modified in accordance with this chapter."

Initial Custody Determination

Under AS 25.30.300 the State of Alaska (herein after referred to as "SOA") does not have jurisdiction to make an initial custody determination. AS 25.30.300

(a)(5) "no court of another state [Indonesia] would have jurisdiction under the criteria specified in (1) - (4) of this subsection. (b) The provisions of (a) of this section are the exclusive jurisdictional bases for making a child custody determination by a court of this state [SOA]. (c) Physical presence of or personal jurisdiction over a party or a child is not necessary or sufficient to make a child custody determination."

MODIFICATION OF CUSTODY

This court does not have jurisdiction to modify the Indonesian Custody determination. AS 25.30.320.

"Except as otherwise provided in AS 25.30.330, a court of this state [SOA] may not modify a child custody determination made by a court of another state [Indonesia] unless a court of this state [SOA] has jurisdiction to make an initial determination under AS 25.30.300 (a)(1), (2), or (3) and (1) the court of the other state [Indonesia] determines it no longer has exclusive, continuing jurisdiction under provisions substantially similar to AS 25.30.310...."

The current attempts in Case(s) #3PA-20-151-154CN and 3PA-20-00568-571CI and 3PA-19-01073CI from Ms. Dinh and the SOA to modify the existing Indonesian custody orders are not permitted by the law and this case should be summarily dismissed.

In Sb v. State Dept. of Health and Soc. Ser., 61 P.3d 6 - holding that,

"jurisdiction under UCCJEA is required to terminate parenting rights, since this court does not have jurisdiction to modify the existing [Indonesian] custody order it

thus has no jurisdiction to terminate parenting rights which is a modification of custody rights.”

In CHRISTENSEN, v. SECKIN, Supreme Court No. S-17749 No. 7530 May 14, 2021 the court held that,

“without subject matter jurisdiction under the UCCJEA to modify a foreign custody order the court cannot act to modify custody.”

Temporary Emergency Jurisdiction

a. This court lacks temporary emergency jurisdiction under AS 25.30.330

(a) “A court of this state [SOA] has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary **in an emergency** to protect the child because the child,....”

The SOA pleading for a “non-emergency” CINA petition on September 2, 2020 styled as case# 3PA-20-00151-0154CN is exactly that a “non-emergency”. And the subsequent DVPO case N. 3PA-20-568-571CI does not meet the statutory requirements required for “emergency jurisdiction”.

Simultaneous Proceedings

This Court [SOA] lacks any and all jurisdiction to hold any hearing for custody or placement of the minor children under AS 25.30.350.

(a) “Except as otherwise provided in AS 25.30.330, a court of this state may not exercise its jurisdiction under AS 25.30.300 - 25.30.390 if, **at the time of the commencement of the proceeding, a proceeding concerning the custody of the child had been previously commenced in a court of another state [Indonesia]** having jurisdiction substantially in conformity with this chapter unless the [Indonesian] proceeding has been terminated or is stayed by the court of the other state [Indonesia]

because a court of this state [SOA] is a more convenient forum under provisions substantially similar to AS 25.30.360.”

(b) “... If the court of the state [Indonesia] having jurisdiction substantially in accordance with this chapter does not determine that the court of this state [SOA] is a more appropriate forum, the court of this state [SOA] shall dismiss the proceeding. “

The Indonesian jurisdiction was established before these case(s) were started. The Indonesian Tribunal has not and will not release or concede jurisdiction to the State of Alaska.¹

Jurisdiction must be declined because of Ms. Dinh’s Conduct

This Court is obligated to decline its jurisdiction as a matter of law under AS 25.30.370.

“(a) Except as otherwise provided in AS 25.30.330 , if a court of this state [SOA] has jurisdiction under this chapter because a person invoking the jurisdiction has engaged in **wrongful conduct, the court [SOA] shall decline to exercise its jurisdiction....”**

Ms. Dinh’s international parental abduction, and the holding children as hostages (wrongful retention) for a green card and forum shopping for a more favorable custody determination is abhorrible behavior and should not and cannot be encouraged/permitted by this court.

AS 25.30.360 challenges this court to determine that this is an inconvenient forum under **(b)(5) (5) an agreement of the parties as to which state should assume jurisdiction**; this court should consider that the parties have already determined the court that has

¹ See the Order on Jurisdiction dated October 10, 2021

jurisdiction in this matter. The parties have already contracted that jurisdiction should be in another forum.

AS 25.30.810 provides that:

(a) A court of this state [SOA] shall treat a foreign country [Indonesia] as if it were a state of the United States for the purpose of applying AS 25.30.400 - 25.30.590.

Mr. Green submits a certified copy REG. No. 178/CO/12/2021 dated December 13, 2021 to this court the list of foreign (Indonesian) custody determination(s) as prepared by Indonesian counsel: (EXHIBIT A)

<p>"Arbitrase Internasional Indonesia dengan Penugasan dari Presiden <i>Soldiers of the Cross</i> pada 17 April 2020 Berdasarkan Perjanjian Para Pihak yang Ditandatangani dan Tertanggal 28 Agustus 2014 di Indonesia untuk Menyelesaikan Setiap dan Seluruh Perselisihan di Masa Depan Melalui Arbitrase yang Mengikat", yang terdiri dari:</p> <ul style="list-style-type: none">• "Putusan Akhir Sebagian Mengenai Yurisdiksi dan Pelaksanaan", dikeluarkan pada tanggal 24 April 2020;• "Klarifikasi atas Putusan Akhir Sebagian Tertanggal 17 Aril 2020 yang Diperbaiki dan Dinotarisasi pada 20 Juli 2020, dikeluarkan pada 24 April 2020;• "Putusan Akhir untuk Seluruh Permasalahan" dikeluarkan pada 20 Juli 2020;	<p>"Indonesian International Arbitration by Assignment of the President of <i>Soldiers of the Cross</i> on April 17, 2020 Based on the Agreement of the Parties Signed and Dated August 28, 2014 in Indonesia to Settle Any and All Future Disputes by Binding Arbitration" which consists of:</p> <ul style="list-style-type: none">• "Partial Final Award on Jurisdiction and Enforceability", issued on 24 April 2020;• "Clarification to the Partial Final Award Dated April 17, 2020 Corrected on And Notarized on July 20, 2020", issued on 24 April 2020;• "Final Award on All Issues" issued on 20 July 2020;
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<ul style="list-style-type: none"> • "Addendum Terhadap Putusan Akhir untuk Seluruh Permasalahan Tertanggal 5 Juli 2020 dan Notarisasi pada 20 Juli 2020", dikeluarkan pada 2 September 2020; • "Klarifikasi atas Penemuan dalam Putusan Akhir untuk Seluruh Permasalahan Tertanggal 17 Mei 2020 dan Notarisasi pada 5 Juli 2020", dikeluarkan pada 1 Desember 2020; • "Klarifikasi atas Pembagian / Distribusi Properti Komersial dalam Putusan Akhir untuk Seluruh Permasalahan Tertanggal 5 Juli 2020, dikeluarkan pada 6 April 2021; • "Perintah Pengembalian", dikeluarkan pada 6 April 2021. <p>(seluruhnya disebut sebagai "Putusan Arbitrase Internasional").</p>	<ul style="list-style-type: none"> • "Addendum to the Final Award on all Issues Award Dated July 5, 2020 and Notarized on July 20, 2020", re-issued on 2 September 2020; • "Clarification of Findings in the Final Award on All Issues Dated May 17, 2020 and Corrected on July 5, 2020", issued on 1 December 2020; • "Clarification as to Commercial Property Division / Distribution to the Final Award on All Issues Award Dated July 5, 2020", issued on 6 April 2021; • "Return Order", issued on 6 April 2021 <p>(collectively referred to as "International Arbitration Award").</p>
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And the award dated October 10, 2021 clarifying jurisdiction under the Hague Conventions.

Mr. Green also provided this court with the last known temporary address of the Ms. Dinh as follows:

Dinh Hoang Phuong
1615 S. B Shannon Road
Wasilla, Alaska 99654

Mr. Greens temporary mailing address is:

Soldiers of the Cross
ICO - Richard Green
POB 870013

Wasilla, AK 99687

And Mr. Green's permanent home mailing address is:

Richard L. Green
Jalan Pertwi Brata
Tegal Suchi, Tamapaksiring,
Gianyar, Bali, Indonesia, 80552

Mr. Green has been forced by Ms. Dinh to temporarily remain in Alaska since December 2018 because Ms. Dinh held the Mr. Greens children as hostages for immigration and custody benefits, namely a green card "in her hand" before releasing custody of the children back to Mr. Green. At all other times the parties and children resided at, Jalan Pertwi Brata, Tegal Suchi, Tamapaksiring, Gyanyar, Bali, Indonesia, 80552 except temporary work and mission assignments in Vietnam and Alaska.

Mr. Green states under penalty of perjury that to the best of his knowledge and belief that the Indonesian Tribunal's Awards/Orders have not been modified by any court with legal jurisdiction. The Indonesian Tribunal maintains exclusive and continuing jurisdiction over the parties and any future custody determinations of the minor children.

Current proceedings:

Indonesia Tribunal Case name: 2014 Green v Dinh, ongoing with exclusive and continuing jurisdiction. Orders dated Partial Final Award April 16, 2020, corrected April 23, 2020 and Final Award on All Issues May 17, 2020 corrected on July 20, 2020.

Indonesian Tribunal Case name: 2020 Green v Dinh,
clarification of Domestic Violence findings. Order dated
December 1, 2020.

Indonesian Tribunal Case name: 2021 Green v Dinh, Return
Order to prevent further domestic violence by Ms. Dinh against
the children. Order dated March 15, 2021 and September 1, 2021
*this court maintains exclusive and continuing jurisdiction over
the parties and rights of custody of the children.

Alaska 3PA-20-01073CI - Case stayed (custody) pending other
proceedings, no change of custody determination has been made.

Alaska 3PA-20-151-154CN - Case in progress with ineffective
assistance of counsel at issue (non-emergency CINA petition).
Temporary custody is pending.

Alaska 3PA-20-568-571CI - case in appeal S-18062 stage for
lack of jurisdiction and ineffective assistance of counsel
(DVPO).

Alaska Case 3PA-20-594-598CI - case in appeal S-18080 stage
for judicial misconduct, denial of hearing and human rights as
required by the law on DVPO against Ms. Dinh (DVPO).

9th Circuit Court of Appeals - Case # 21-35146 -
registration of Foreign arbitration award under the Convention
for Recognition and Enforcement of Foreign Arbitral Awards 1958.
Final briefing is completed and Summary Judgement (in favor of
Mr. Green) is pending in the case.

Mr. Green and Ms. Dinh have both actively participated in all of the proceedings listed above. Mr. Green's participation in the Alaska cases has been limited to contesting jurisdiction and interim/emergency efforts to protect his children from more acts of physical child abuse by Ms. Dinh. And now Mr. Green must protect his children from the physical abuse and mental injury intentionally perpetrated against his children committed by the SOA and OCS personnel and Ms. Dinh.²

Federal District Court (Alaska) Hauge Convention case (2021) is pending.

Given the egregious conduct of the State of Alaska and this Court's refusal to review the issue of subject matter jurisdiction as required by the 9th Circuit Court of Appeal and the U.S. Supreme Courts case law. Mr. Green anticipates the Writ of Certiorari to the United States Supreme Court will be filed within the next 30 days.

Enforcement

Enforcement in accordance with AS 25.30.440(a).

a. The Indonesian Tribunal's jurisdiction is based on the agreement of the parties in the Contact dated August 28, 2014, the personal appearance by both parties who were each

² Expert Report dated September 23, 2021, Exhibit Z-118

individually represented by counsel and the applicable Indonesian and International Law defining domicile and habitual residence.

b. The Award(s) have not been vacated, stayed or modified by any court that has jurisdiction over the parties and the subject matter of the parties contract.

c. The Indonesian Tribunal had and always has maintained exclusive and continuing jurisdiction over the parties and the rights of custody related to the minor children. No other proceedings in Indonesian have been commenced that will affect the current proceedings other than the registration of the Tribunal's findings, which the [Indonesian] district court cannot interfere in or interrupt.

Recognition and Enforcement

AS 25.30.510.

"A court of this state [SOA] shall give full faith and credit to an order issued by another state [Indonesia] consistent with this chapter if the order enforces a child custody determination by a court of another state [Indonesia] unless the order has been vacated, stayed, or modified by a court having jurisdiction [Indonesian court only] to do so under AS 25.30.300 - 25.30.390 or provisions substantially similar to AS 25.30.300 - 25.30.390."

No Indonesian court has ever vacated, stayed or modified the orders sought to be recognized and enforced in this pleading.

International Application of Chapter

AS 25.30.810 (a)

“A court of this state [SOA] shall treat a foreign country [Indonesia] as if it were a state of the United States for the purpose of applying AS 25.30.400 - 25.30.590.

(b) Except as provided in (c) of this section, a child custody determination made in a foreign country [Indonesia] under factual circumstances in substantial conformity with the jurisdictional standards of this chapter shall be recognized and enforced under AS 25.30.400 - 25.30.590.”

Priority

j. AS 25.30.830.

“If a question of existence or exercise of jurisdiction under this chapter is raised in a child custody proceeding [this case], the question, on request of a party, shall be given priority on the calendar and handled expeditiously.”

As described above the State of Alaska has no jurisdiction except that of registration and enforcement of the foreign [Indonesia] Tribunals custody determinations.

Respectfully submitted,

This 3rd day of January, 2022.

/R/Green
Richard L. Green,

Richard L. Green
Jl. Perwiti Brata,
Tampaksiring, Gianyar, Bali, Indonesia

Temporary mailing address:
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rlgreenak@yahoo.com

Email: rlgreenak@yahoo.com

IN THE SUPREME COURT FOR THE STATE OF ALASKA

Richard L. Green)
)
 Appellant ,)
 vs.) Supreme Court
) Case No. S-18062
 State of Alaska, DHSS, OCS, OPA)
)
 Appellee(s) ,)
)
 Trial Court Case No. 3PA-20-00568-571CI

CASE LAW BRIEF (UCCJEA)

The PKPA and the UCCJEA Case Law

“The PKPA, however, preempts this first in time provision, and grants exclusive jurisdiction to the child[s] home state. Moreover, the UCCJEA, which replaces the UCCJA, is consistent with the PKPA and grants exclusive jurisdiction to the home state... thereby eliminating the possibility of concurrent jurisdiction”¹

“without subject-matter jurisdiction under the UCCJEA to modify a foreign custody order the court cannot act to modify custody.”²

“Finding UCCJEA “requires that the family court [CINA Court} must confer with the judge who issued the out-of-state custody order and/or get the out-of-state court to release its continuing jurisdiction over its custody order before modifying an out-of-state order.”³

“We hold that if an out-of-state court issued an order returning physical custody of a child to the parents, that satisfies the UCCJEA’s definition of “child-custody determination.” So, a Colorado court seeking to modify such a order must follow the UCCJEA’s procedures for acquiring modification jurisdiction. Since the record suggests that such an order exists and the district court didn’t acquire jurisdiction to modify it, we vacate the termination order...”⁴

¹ *Atkins v Vigil S-10621 (2002)*

² CHRISTENSEN, v. SECKIN, Supreme Court No. S-17749 No. 7530 May 14, 2021

³ Melgar v. Campo 215 Ariz. 605 (Ariz. Ct. App. 2007)

⁴ B.H. v. D.H. (In re B.H.) 2021 CO 39 (Colo. 2021)

*"We hold that UCCJEA temporary emergency jurisdiction exists only to protect abandoned children or to prevent mistreatment or abuse in emergencies. The juvenile court did not have temporary emergency jurisdiction when it terminated parental rights here because S.A.G. was not then abandoned and no emergency then existed. Thus, the division was right to vacate the termination judgment."*⁵

*"Because this case is an interstate child custody dispute, we hold that the district court erred in exercising jurisdiction pursuant to Wyoming's Child Protection Act. The district court had jurisdiction to respond to the immediate threat to the children, but that jurisdiction was as defined and limited by the temporary emergency jurisdiction provisions of Wyoming's Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)."*⁶

FULL FAITH AND CREDIT

*"The Full Faith and Credit Clause is not [334 U.S. 541 , 546] to be applied, accommodation-like, to accommodate our personal predilections. It substituted a command for the earlier principles of comity and thus basically altered the status of the States as independent sovereigns. Williams v. North Carolina, 317 U.S. 287 , 301, 302, 214, 143 A.L.R. 1273; Sherrer v. Sherrer, supra."*⁷

*"When an action is brought in a court of this country, by a citizen of a foreign country against one of our own citizens, to recover a sum of money adjudged by a court of that country to be due from the defendant to the plaintiff, and the foreign judgment appears to have been rendered by a competent court, having jurisdiction of the cause and of the parties, and upon due allegations and proofs, and opportunity to defend against them, and its proceedings are according to the course of a civilized jurisprudence, and are stated in a clear and formal record, the judgment is prima facie evidence, at least, of the truth of the matter adjudged; and the judgment is conclusive upon the merits tried in the foreign court, unless some special ground is shown for impeaching it, as by showing that it was affected by fraud or prejudice, or that by the principles of international law, and by the comity of our own country, it is not entitled to full credit and effect."*⁸

⁵ S.A.G. v. B.A.G. (In re S.A.G.) 487 P.3d 677 (Colo. 2021)

⁶ SC v. State (In re NC) 294 P.3d 866 (Wyo. 2013)

⁷ Estin v. Estin 334 U.S. 541

⁸ Hilton v. Guyot 159 U.S. 113 (1895) • 16 S. Ct. 139 Decided Jun 3, 1895

“(1) that a divorce decree granted by a State to one of its domiciliaries is entitled to full faith and credit in a bigamy prosecution brought in another State, even though the other spouse was given notice of the divorce proceeding only through constructive service;”⁹

“United States courts have secondary jurisdiction over a foreign award, so they may not vacate, set aside, or modify the award,”¹⁰

Acts of State Doctrine -

“The courts of one State will not question the validity of public acts performed by other sovereigns within their own borders, even when such courts have jurisdiction over a controversy in which one of the litigants has standing to challenge those acts.

The doctrine represents deference to the superior exercise of jurisdiction by the territorial State and prevents the U.S. from unlawfully extending its jurisdiction to situations and acts authoritatively determined by the territorial State. As such, the doctrine represents an acknowledgment that the US does not possess the legal competence to reverse the acts of foreign sovereigns carried out abroad.

In Kirkpatrick, the U.S. Supreme Court reconfirmed that,

“This is the principle that the validity of an act is to be determined by the law of the territory where the act took place. Thus, acts of the sovereign, or acts of state, done within the sovereign’s own territory, are legally valid everywhere.”

OTHER CASE LAW

“Finding that “[t]he Hague Convention is generally intended to restore the pre-abduction status quo and to deter parents from crossing borders in search of a more sympathetic court.”¹¹

⁹ Williams v. North Carolina, 317 U.S. 287, 143 A.L.R. 1273; 325 U.S. 226, 157 A.L.R. 1366

¹⁰ In United States District Court Case #8:18-cv-03546-

¹¹ In Friedrich v. Friedrich 78 F.3d 1060 (6th Cir. 1996)

"we explained that Congress enacted ICARA to implement the Hauge Convention. The Hauge Convention, we stated, "was enacted to `secure the prompt return of children wrongfully removed to or retained in any Contracting State' and to `ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.'" ¹²

"Explaining that any return remedy merely "seeks to restore the status quo that existed prior to the wrongful ... retention." ¹³

In Smedley, the Fourth Circuit found that the district court had properly found the foreign court's decision was "at least minimally reasonable," which was sufficient to accord comity. ¹⁴

In this case the mother abducted the children twice and in violation of the ongoing custody preceding's in Panama. The Appellant court held that it was a plain error for the District Court [just like this Court] to refuse to return the children based on them being settled since the mother had hid the children from the father.¹⁵ This is also Ms. Dinh's second time she has held the children hostages and secreted them from Mr. Green.

¹² In Ruiz v. Tenorio, 392 F.3d 1247, 1250-51 (11th Cir. 2004),

¹³ In Didon v. Castillo 838 F.3d 313 (3d Cir. 2016)

¹⁴ Smedley v. Smedley 772 F.3d 184 (4th Cir. 2014)

¹⁵ Fernandez v. Bailey 909 F.3d 353 (11th Cir. 2018)

*Stating that "a person can have only one habitual residence" and concluding the parents intended for their children to stay in the United States for just one year, not to relocate there."*¹⁶

*"Explaining that "the Conventions ...stresses the importance of deciding matters expeditiously" and noting "protraction is hardly consonant with the Convention's objectives, "which" stresses the need for...establishing swiftly a degree of certainty and finality for children" (citing *Chafin v. Chafin*, 568 U.S. 165, 185 (2013) (Ginsburg, J., concurring))"*¹⁷

*"Pursuant to Article 19 of the Convention, [this court has] no power to pass [review] on the merits of custody")."*¹⁸

*"[The] District Court only has jurisdiction to decide the merits of the wrongful removal/retention claim, as the Conventions are intended to restore the pre-adjudication status quo and determine jurisdiction and deter parents from crossing borders in search of more sympathetic courts."*¹⁹

*"the Hague Convention requires the return of the child to the parent who possess a single right of custody—even a joint right—that is violated by the child's removal."*²⁰

*"the habitual residence of the children was the country that had rights to determine custody".*²¹

"the return of the children was necessary... The mother has fragrantly went to the UK to avoid the custody laws of Mozambique The children and mother remain unsettled in temporary public housing and her illegal immigration attempts would

¹⁶ *Panteleris v. Panteleris* 601 F. App'x 345 (6th Cir. 2015),

¹⁷ *Ermini v. Vittori* 758 F.3d 153 (2d Cir. 2014),

¹⁸ *In re: Morris*, 55F. Supp. 2d 1156, 1160 (D. Colo. 1999) See also *Meredith v. Meredith*, 759 F. Supp. 1432, 1434 (D. Ariz. 1991); *Loos v Manuel*, 651 A.2d 1077 (N.J. Super. Ct. Ch. Div. 1994).

¹⁹ *Lops v Lops*, 140 F.3d 927, 936 (11th Cir. 1998) (citations omitted); *Barrios Gil. V. Del Valle Matheus Rodriguez*, 184 F. Supp. 2d 1221, 1224 (M.D. Fla. 2002) (Emphasis added).

²⁰ *In Lozano v. Alvarez 572 U.S. 1 (2014).*

²¹ *In Shortridge-Tsuchiya v. Tsuchiya, 2009 BCSC 541 (CanLII),*

<<https://canlii.ca/t/236qt>>, retrieved on 2021-08-24

ultimately lead to her deportation to the republic of the Congo. The children were order returned to the father in Mozambique under the Hauge principles.”²²

“Appeal allowed and return ordered; having considered the child's best interests, the objections of the mother and the policy to apply in non-Convention abduction cases the court ordered that the child be returned to Saudi Arabia a non-convention country.”²³

“the Turkish order for custody was to be enforced since the hearings were on notice and both parties had an opportunity to be heard.”²⁴

“Reasoning that it was appropriate for the TRO to be issued without notice to Respondent for the same reasons that warranted issuing the TRO to begin with, including the dangers of [Mr. Green] being unable to locate the child in the future.”²⁵

“the Hague Convention requires the return of the child to the parent who possess a single right of custody—even a joint right—that is violated by the child's removal.”²⁶

Holding that “a federal court was not bound by a state court's custody decision where the state court did not actually adjudicate the Hague Convention claim.”²⁷

“the return of the children was necessary to promote the long term stability of the children. The short term claims of the mother did not prevail. The mother has flagrantly went to the UK to avoid the custody laws of Mozambique to seek asylum and that effort failed. The children and mother remain unsettled in temporary public housing and her illegal immigration attempts would ultimately lead to her deportation to the republic of the

²² Re M. [2007] UKHL 55, [INCADAT cite: HC/E/UKe 937]; Re D. (a child) (abduction: foreign custody rights) [2006] UKHL 51 [INCADAT Reference: HC/E/UKe 880]; Re J. (a child) (return to foreign jurisdiction: convention rights), [2005] UKHL 40, [2006] 1 AC 80 [INCADAT Reference: HC/E/UKe 801].

²³ Re J. (A Child) (Custody Rights: Jurisdiction) [2005] UKHL 40, [2006] 1 A.C. 80 [INCADAT Reference: HC/E/UKe 801].

²⁴ IN THE MATTER OF ISMAIL YAMAN AND LINDA YAMAN 2nd Circuit Court – Lebanon Family Division No. 2013-781 Argued: September 11, 2014 Opinion Issued: November 7, 2014

²⁵ Wood v. Wood NO: 13-CV-3046-TOR (E.D. Wash. May. 8, 2013)

²⁶ Lozano v. Alvarez 572 U.S. 1 (2014)

²⁷ Gaudin v. Remis 415 F.3d 1028 (9th Cir. 2005)

Congo. The children were order returned to the father in Mozambique under the Hauge principles.”²⁸

“Appeal allowed and return ordered; having considered the child's best interests, the objections of the mother and the policy to applied in non-Convention abduction cases the court ordered that the child be returned to Saudi Arabia a non-convention country.”²⁹

“When a parent seeks the return of a child outside the scope of the Hague Convention, or another international or regional instrument, the court seized will have to decide how to balance the interests of the child with the general international policy of combating the illicit transfer and non-return of children abroad (Art. 11(1) UNCRC 1990).”

“The Court questioned whether it was advisable to permit an abducting parent to criticize the standards of the family justice system in a State not party to the Hague Child Abduction Convention other than in exceptional circumstances, where there might be evidence of persecution, or ethnic, sex, or any other discrimination. It was held that the principles of the paramountcy of the welfare of the children and that of international comity, in particular respect for the foreign jurisdiction, were not necessarily in conflict in the present case. This was because the children were Sudanese and that their welfare could well be served by a decision in accordance with the norms and values of the Sudanese society in which they lived. Consequently a decision in accordance with local law was capable of being in their best interests.”³⁰

“Finding that the habitual residence of the children was the country that had rights to determine custody.”³¹

“when the parents entered into and executed a custody agreement the court did not have an interest in the children and patria potestas.”³²

²⁸ *Re M.* [2007] UKHL 55, [INCADAT cite: HC/E/UKe 937]; *Re D. (a child) (abduction: foreign custody rights)* [2006] UKHL 51 [INCADAT Reference: HC/E/UKe 880]; *Re J. (a child) (return to foreign jurisdiction: convention rights)*, [2005] UKHL 40, [2006] 1 AC 80 [INCADAT Reference: HC/E/UKe 801].

²⁹ *Re J. (A Child) (Custody Rights: Jurisdiction)* [2005] UKHL 40, [2006] 1 A.C. 80 [INCADAT Reference: HC/E/UKe 801].

³⁰ <http://www.hcch.net/incadat/fullcase/0589.htm> the court ordered the children returned to a non-convention county Sudan.

³¹ *Shortridge-Tsuchiya v. Tsuchiya*, 2009 BCSC 541 (CanLII), <<https://canlii.ca/t/236qt>>, retrieved on 2021-08-24, the Canadian Appeals court also ordered the child returned to Japan a non-convention country.

³² *Gonzalez v. Gutierrez*, 311 F.3d 942

“Noting that immigration status is an appropriate consideration in the “settled” inquiry because it affects how long the child will be able to stay in the United States and whether she will be entitled to certain government benefits.”³³

“Providing as an example that “an appellate court (this Court) may resolve the case without remanding if the evidence would inevitably produce the same outcome under the correct standard”³⁴

Respectfully Submitted,

Dated this 24th day of December, 2021.

_____/R/Green_____
Richard L. Green,
Petitioner

³³ Lozano v. Alvarez 697 F.3d 41 (2d Cir. 2012)

³⁴ Humphrey v. Humphrey 434 F.3d 243 (4th Cir. 2006)

Ryan Montgomery-Sythe

From: Richard Lee <rlgreenak@yahoo.com>
Sent: Tuesday, January 4, 2022 7:56 AM
To: Pleadings; Ranchoff, Eric J (LAW); Levitt, Rachel E (DOA); Adam Gulkis; Katherine Demarest; Beecher, Linda R (DOA)
Subject: #18062 - motion for supplemental briefing
Attachments: 1.3.2022 Memorandum Alaska Enactment of the UCCJEA.pdf; 1.3.2022 UCCJEA Case Law.pdf; 12.3.2022 motion to preserve and remand (DVPO).pdf; Exhibit A - ALL IND certified copy awards copy 2.pdf; Exhibit D - 9.24.2020 Mr. Green's answer and counter claims (FILLED) copy 2.pdf; Z-118 9.23.2021 Green Kaufman Report Visitation Final V2 copy 2.pdf